

Remarks35 U.S.C. § 103 Claim Rejections:

Claims 1-3, 5, 7, 9-10, 13, 14, 17, 38, 39, 40-55 and 57-60 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Thagard, et al. (U.S. Patent No. 5,657,620) in view of Figure 2A of the specification.

As to claim 1, the Examiner stated that Thagard disclosed the claimed invention including a plane of the deck being parallel to the plane of the mower in its entirety. The plane, defined by part 367, was deemed parallel to part 374 on the mower deck as shown in Figure 3 of Thagard. However, it is respectfully submitted that the Examiner has misconstrued the device of Thagard and how it may be pertinent to the pending claims.

Claim 1 calls for a deck which is disposed above and generally parallel to the blade. Claim 1 also calls for the plane of the guard to be coplanar with the plane of the deck. Thus, the plane of the guard (top surface 104) is coplanar with the plane of the deck (top surface 102), as shown in Fig. 3B. In contrast, Thagard includes a shroud 360 which is positioned above the deck 172 and is never coplanar or in the same plane as a plane of the deck. It is stated in the Office Action that part 367 of the guard is entirely parallel to part 374 of the deck. While that may be true, if part 374 of Thagard is contended to be the deck recited in claim 1 then the deck is not "disposed above and generally parallel to said blade" as called for in claim 1.

Furthermore, referring to Figure 2A of the specification, prior art guard 30 swings rearward above blades 32 and below the deck 34. The guard retracts into a housing below the deck 34 and above blades 32. Thus, whether the guard is either in the extended or retracted positions, it is not coplanar with the deck. As a result, claim 1 patentably defines over the asserted combination of Thagard, et al. in view of the prior art of Figure 2A.

Dependent claims 2-4 and 7 also patentably define over the asserted combination of references. Thus, it is respectfully submitted that claim 4 is patentable, even in its dependent form.

Claim 9 also calls for the deck to be disposed above and generally parallel to the blade. In addition, claim 9 recites that the plane of the guard is parallel to, and spaced from, the plane of the deck (see Fig. 4B of the instant application). While the plane of the guard or shroud 360 may be spaced from the plane of the deck, it is not parallel thereto as recited in independent claim 9. Therefore, this claim also patentably defines over the asserted combination of references.

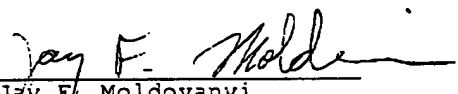
Dependent claims 10-14 and 17 also patentably define over the asserted combination of references. Thus, it is respectfully submitted that claims 11 and 12 are patentable, even in their dependent form.

Conclusion

In view of the above remarks, applicant submits that, in addition to claims 18-25 and 40 which have been allowed, at least claims 1-5 and 7 and claims 9-14 and 17 are also in condition for allowance over the art of record. A revised Office Action to that effect is hereby respectfully requested.

Respectfully submitted,

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